

[2019] NZSSAA 3

Reference No. SSA 18/18

IN THE MATTER of the Social Security Act 2018

AND

IN THE MATTER of an appeal by **XXXX** of **XXXX** against a decision of a Benefits Review Committee

BEFORE THE SOCIAL SECURITY APPEAL AUTHORITY

S Pezaro - Deputy Chair

K Williams - Member

C Joe - Member

Hearing at Auckland on 16 January 2019

Appearances

No appearance for the appellant

A Katona for the Ministry of Social Development

DECISION

Background

- [1] XXXX (the appellant) appeals the decision, upheld by a Benefits Review Committee, to decline his application on 15 April 2017 for Temporary Additional Support (TAS). At telephone conferences convened prior to the hearing, the appellant said that the Ministry did not have all the relevant information when it made the decision. He then produced more receipts and proof of his costs, particularly in relation to filling gas bottles.
- [2] This appeal was scheduled for hearing on 7 November 2018 but could not proceed due to industrial action. The appeal was rescheduled for hearing on 16 January 2019. Mr Lear then advised the Authority that he would withdraw his appeal to 'take it to the court'.
- [3] The Authority then issued a direction that, unless the appeal was withdrawn unconditionally, it would remain for hearing as scheduled. The reasons give were that appeals against a decision of a Benefit Review Committee must be filed in the Social Security Appeal Authority; the District

Court has no jurisdiction to determine such claims and, while the High Court has jurisdiction to consider appeals by way of case stated from a decision of the Authority, this course of action is not available to the appellant until the Authority has decided his appeal.

[4] The appellant failed to appear at the hearing. In these circumstances we heard from the Ministry's agent and determined the appeal on the basis of the available evidence.

[5] Based on the information provided in the Ministry's report, we are satisfied that the appellant was not entitled to TAS when he applied in April 2017.

Order

[6] The appeal is dismissed.

Dated at Wellington this 23rd day of January 2019

S Pezaro
Deputy Chair

K Williams
Member

C Joe
Member